

REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on July 15, 2002. Claims 1-17 are standing for examination. Claims 1, 3-7, 9-15, and 17 are rejected under 35 U.S.C. 103(a) as being anticipated by Guy et al. (US 5,940,479) hereinafter Guy. Claims 2, 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guy in view of Andrews et al. (US 5,848,143) hereinafter Andrews.

In response to the Examiner's rejections, objections and statements, applicant herein presents clear arguments to demonstrate how the claims distinguish unarguably over the references of Guy and Andrews.

In the last Office Letter issued by the Examiner claims 1, 3-7, 9-15, and 17 were rejected as being anticipated by Guy. Applicant argued extensively that Guy fails to teach vocal communication between two Internet appliances. The Examiner presents a new rejection in the present Office Letter wherein claims 1, 3-7, 9-15, and 17 are rejected under 35 U.S.C. 103(a) as being obvious over Guy. The Examiner states that Guy fails to explicitly disclose that the end destination is an Internet -capable call appliance. The Examiner states that it would have been obvious to originate a call from PC phone 103/105 and designate the call to PC phone 145/143 in the system of Guy thus minimizing the call delay caused by converting compressed digital signals into analog signals.

Applicant respectfully traverses the Examiner's above reasoning of obviousness. Applicant points out to the Examiner that in order to support the conclusion that the claimed invention is directed to obvious subject matter, either the reference must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious **in light of the teachings of the reference**. Both the suggestion to make the claimed combination and the

reasonable expectation of success must be founded in the prior art and not in applicant's disclosure.

Applicant argues that the originating call dials a PSTN number and does not place an Internet call to another communicator on the Internet. The calls placed from phone 105 in Guy are converted at both ends (see Fig. 5). Therefore, the Examiner's reasoning that bypassing conversion at the receiving end fails, because conversion must also take place at the originating end in the art of Guy. Only applicant's specification suggests true IP calls from origination to destination.

The Examiner states that Guy discloses calls setup between call appliance 103/105 and the router 114 (*end node leg*), and the call setup between the router 114 and 132 through the Internet 104 (*intermediate legs*), the call setup between the router 132 and the called appliance 143/145 (*end node leg*) are separate and distinct (see figs. 1, 5; and col. 4 line 54 to col. 6 line 35).

It appears the examination in this case is following the path of investing prior art status in inventions that accomplish the same or a similar purpose as the invention in examination, rather than following the principle that it is the actual limitations of the claim that must be found in the art. The Examiner in this case continues to use the art of Guy to teach placing an IP call over the Internet that might, in one instance, be used to accomplish the purpose of the claimed invention, but by a different system. The problem with this approach in examination is that the rejections are not *prima facie*, in that they do not teach the actual physical limitations of the claimed apparatus. They only teach accomplishing a similar purpose.

Applicant argues that in the art of Guy, setup between the originating call appliance and the destination call appliance requires, in each instance of connection, setup from source to final destination each time a connection is needed (setup tear down 404). Because IP telephony uses shared bandwidth as opposed to having a COST dedicated connection, capacity is wasted with multiple channel establishment, and quality of service (QoS) associated with IP calls over

the connection may be degraded if there are many such calls. This is true in a COST integrated IP network, as well as in an IN (true IP).

Further, Guy specifically discloses utilizing RSVP (reserving bandwidth) along with a forward error correction technique which are required when packets of one call are sent via separate paths which is common in the art. Establishing, maintaining and manipulating call legs in the network negate the requirements for RSVP and the forward error correction technique of Guy. Therefore, Guy teaches away from establishing call legs as claimed.

Applicant's invention as claimed provides manipulation of established call legs in order to provide telephony functions in the IP network. Applicant's invention accomplishes this by providing software setting up and maintaining separate and distinct end node legs between call appliances and routers, and separate and distinct intermediate legs between routers in the Internet, and then joining and disjoining the legs to establish voice communication and to provide telephony functions, for example call waiting, between said IP call appliances.

Applicant argues that the art of Guy fails to provide any teaching or suggestion of manipulating established call legs in order to provide telephony functions. Applicant argues that if any one of the connections between calling devices, routers or gateways in the art of Guy are disconnected *the entire connection fails*. There are no established and maintained call legs in the art of Guy, which may be manipulated independent of any other call legs without degrading the entire connection therefore requiring the call setup beginning the origination point of the call.

As clearly seen in Fig. 1 of Guy, there are no established legs in the WAN 104. **The communication between router 112 and router 132 through the WAN is not controlled by the system. The call can travel via a plurality of nodes and router in the WAN from 112 to 132. Applicant claims establishing intermediate legs between routers. Guy fails to teach or suggest applicant's said limitation.**

Guy discloses a call setup/tear-down unit **404** performing and controlling the call setup procedure and the call tear-down procedure. Guy has absolutely no teaching wherein the unit **404** establishes and maintains end node legs and intermediate legs, wherein those legs are manipulated, independent of each other, in order to complete connections between two IP enabled call appliances. The Examiner, to make a prima facie rejection, must provide a reference with this teaching, or clearly show in Guy where and how this occurs (which it does not). Applicant points out that, again, the Examiner did not respond to the above argument and formerly requests a response in the next Office Action.

Claim 1 is clearly patentable over the art of Guy as argued above. Independent claims 7, 13 and 17 include similar patentable limitations argued on behalf of claim 1 above. Dependent claims 2-6, 8-12, and 14-16 are patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims left standing and as amended are clearly shown to be patentable over the art of Guy, and over Guy in combination with any of the cited art, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

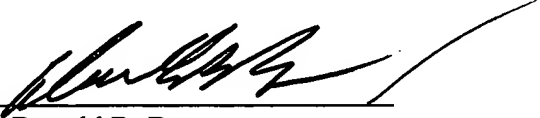
Version With Markings to Show Changes Made

In the claims:

There are no changes made to the claims or the specification in the present Amendment.

Respectfully Submitted,
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by


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